

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KURT L. HUDSON,
Plaintiff,

v.

WELLS FARGO & COMPANY, et al.,
Defendants.

Case No. [21-cv-08296-HSG](#)

ORDER

On July 13, 2022, the Court granted Defendants' motion to dismiss Plaintiff Kurt L. Hudson's complaint. Dkt. No. 47. The Court granted Plaintiff leave to file an amended complaint by August 12, 2022. *Id.* The deadline for Plaintiff to file his second amended complaint has passed. Rather than file an amended complaint, Plaintiff filed a notice of appeal to the Ninth Circuit. *See* Dkt. No. 48. However, the order dismissing with leave to amend is not a final order that ended the litigation, and is thus not appealable as of right. Nevertheless, the Ninth Circuit has explained that when a plaintiff has declined amendment of his complaint in favor of appealing the dismissal, the district court should dismiss the action with prejudice under Federal Rule of Civil Procedure 12(b)(6). *See Edwards v. Marin Park, Inc.*, 356 F.3d 1058 (9th Cir. 2004).

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Consistent with *Edwards*, if Plaintiff would like to pursue an appeal rather than file an amended complaint, the Court will dismiss this action with prejudice. The Court therefore **DIRECTS** Plaintiff to confirm that he is declining the opportunity to amend the complaint to remedy the deficiencies the Court identified, and instead seeks a dismissal with prejudice to enable an immediate appeal. Plaintiff shall file a statement of two pages or less by August 29, 2022.

IT IS SO ORDERED.

Dated: 8/15/2022


HAYWOOD S. GILLIAM, JR.
United States District Judge